

REMARKS

The present amendment is submitted in response to the Office Action dated January 13, 2010, which set a three-month period for response. Filed herewith is a Request for a Three-month Extension of Time, making this amendment due by July 13, 2010.

Claims 1, 3, and 5-15 are pending in this application.

In the Office Action, claims 1, 3, 4, 8-10, 13, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over anticipated by U.S. Patent Pub. No. US 2003/0127920 to Yamazaki et al in view of U.S. Patent No. 5,686,780 to Adachi et al. Claims 5, 6, 11, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki et al and Adachi, and further in view of U.S. Patent No. 6,081,054 to Yamazaki et al. Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki and Adachi and further in view of EP 669696 to Bornet et al.

In the present amendment, claim 1 has been amended to further distinguish the invention over the cited art by adding the features of claim 4, specifically, that "the guide (19) of the wiper contact mounting region (16) has a center line (43) oriented in a direction of motion of the wiper contacts (22), and the first through opening (34) has an angular spacing a from the center line (43), and the second through opening (37) has an angular spacing b from the center line (43), and the ratio between b and a is between 5.2 and 6".

The narrower limitation that the ratio is between 5.4 and 5.6 is now defined in new claim 15. Claim 4 was canceled.

Adachi's Fig. 10 does not show a wiper contact mounting region that is located asymmetrically between the first through opening and the second through opening. Further, Fig. 10 clearly indicates that the distance between the first through opening and the wiper contact mounting region is 33 millimeters and the distance between the wiper contact mounting region and the second through opening is also exactly 33 millimeters. Thus, Adachi does not show a wiper contact mounting region that is located asymmetrically between the first through opening and the second through opening, as the distances between the openings and the wiper contact mounting region are equal in length, as shown in Fig. 10.

The Examiner maintains in the outstanding Office Action with regard to claim 4, now incorporated into claim 1, that Yamazaki and Adachi do not specifically disclose the ratio of angular spacings between the first through opening and the center line of the wiper contact mounting region and the second through opening and the center line of the wiper contact mounting region as being between 5.2 and 6.0. However, he argues that it would have been obvious to provide the spacing as claimed. The Applicants disagree.

Adachi makes clear, especially in Fig. 10, that the angle between the first through opening on the left side of the wiper contact mounting region and the center line is 35° . If one multiplies this value by the factor 5.2 or 6, then the result will be 182° or 210° . If the practitioner then attempted to position a second

through opening according to these angles, there would be not point as it would be simply impossible.

Even if the distance between the center line of the wiper contact mounting region and the center of the second through opening to the right side related to an angle that equals a product of an unknown angle and the factor 5.2 and 6, then the angle between the first through opening and the center line of the wiper contact mounting region would be 5.8° and 6.7° . As shown in Fig. 10, a first through opening positioned at such values of an angle would lead to a position of the first through opening that would nearly collide with the brush holder 69. It is impossible to execute a position of the first through opening at the same location where the brush holder 69 is positioned.


Therefore, Adachi actually teaches away from the present invention: it would not be obvious to provide the claimed spacing between the center line and the first and second through openings.

It is respectfully submitted that since the prior art does not suggest the desirability of the claimed invention, such art cannot establish a *prima facie* case of obviousness as clearly set forth in MPEP section 2143.01. Please note also that the modification proposed by the Examiner would change the principle of operation of the prior art, so that also for this reason the references are not sufficient to render the claims *prima facie* obvious (see the last paragraph of the aforementioned MPEP section 2143.01). When establishing obviousness under Section 103, it is not pertinent whether the prior art device possess the functional

characteristics of the claimed invention, if the reference does not describe or suggest its structure. *In re Mills*, 16 USPQ 2d 1430, 1432-33 (Fed. Cir. 1990).

The application in its amended state is believed to be in condition for allowance. Action to this end is courteously solicited. However, should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



Michael J. Striker
Attorney for Applicant(s)
Reg. No. 27233
103 East Neck Road
Huntington, New York 11743
631-549-4700